

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

GEORGE GUTIERREZ LUNA,

Plaintiff,

vs.

SOUTH DAKOTA DEPARTMENT OF
CORRECTIONS, STATE PENITENTIARY
OFFICIALS, ADMINISTRATIVE STAFF,

Defendants.

4:17-CV-04145-KES

ORDER

Plaintiff, George Gutierrez Luna, is an inmate at the South Dakota State Penitentiary in Sioux Falls. On October 10, 2017, Luna filed a pro se civil rights lawsuit under to 42 U.S.C. § 1983. Docket 1. Luna, however, did not file “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint” as is required. 28 U.S.C. § 1915. On October 11, 2017, the Clerk of Court sent Luna a Prisoner Trust Account Report and directed him to complete it. Docket 2. Two months have passed, and Luna has failed to return a completed Prisoner Trust Account Report. Thus, he has not yet satisfied, nor attempted to satisfy, 28 U.S.C. § 1915(a)(2).

The court will provide Luna an additional thirty days to file “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2). Failure to comply with this order and

submit a certified Prisoner Trust Account Report by the deadline set will result in dismissal without prejudice of this action. *See In re Prison Litig. Reform Act*, 105 F.3d 1131, 1132 (6th Cir. 1997) (“If an inmate not paying the full filing fee fails to provide an affidavit of indigency or trust account statement, the district court shall notify the prisoner of the deficiency and the prisoner shall have thirty (30) days from the date of the deficiency order to correct the error or pay the full filing fee. If the prisoner does not comply with the district court’s directions, the . . . district court must then order the case dismissed for want of prosecution.”); *see also Perry v. Boston Scientific Family*, CIV. No. 11-3464 (DWF/LIB), 2012 WL 694713, at *2 (D. Minn. Feb. 9, 2012), *report and recommendation adopted*, CIV. No. 11-3464 (DWF/LIB), 2012 WL 694700, at *1 (D. Minn. Mar. 1, 2012) (collecting cases holding dismissal appropriate when pro se litigant fails to comply with pauper requirements and court orders).

Thus, it is

ORDERED that the Clerk of Court mail this order and a Prisoner Trust Account Report to Luna.

IT IS FURTHER ORDERED that Luna will complete the Prisoner Trust Account Report according to that document’s directions and return it by January 18, 2018, will result in dismissal without prejudice of the complaint.

DATED this 19th day of December, 2017.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE